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RECENT DEVELOPMENT

PETERSON V. STATE: DEFENDANTS FOUND GUILTY BUT NOT CRIMINALLY RESPONSIBLE ARE NOT ELIGIBLE FOR RELIEF UNDER THE UNIFORM POST-CONVICTION PROCEDURE ACT NOR BY WRIT OF CORUM NOBIS, BUT CIRCUIT COURTS MAY DETERMINE WHETHER NCR DEFENDANTS ARE ELIGIBLE FOR HABEAS CORPUS RELIEF.

By: Meaghan Farnham

The Court of Appeals of Maryland held that a person convicted of a crime and found not criminally responsible (“NCR”) is not eligible for post-conviction relief under the Uniform Post-Conviction Procedure Act (“UPPA”) or through a Writ of Error *Corum Nobis*. *Peterson v. State*, 467 Md. 713, 739, 226 A.3d 246, 261 (2020). Since NCR defendants are not afforded similar post-conviction relief as criminally responsible defendants, the court found that NCR defendants may be entitled to *habeas corpus* relief following civil confinement or conditional release. *Id.* at 736, 226 A.3d at 259.

On March 6, 2007, two members of the Washington Area Vehicle Enforcement Team observed Mr. Peterson enter the roadway on Marlboro Pike in Prince George’s County. Corporals Stakes and Aponte testified that they believed Mr. Peterson was pointing a silver rifle at an oncoming vehicle. As Mr. Peterson approached the oncoming vehicle, it appeared to the officers that Mr. Peterson was about to commit a carjacking. Corporal Aponte placed Mr. Peterson under arrest and discovered the rifle was in fact a silver calk gun. The circuit court found Mr. Peterson guilty of two counts of second-degree assault and determined that he was not criminally responsible. Mr. Peterson was committed to the Maryland Department of Health for inpatient treatment.

Relying on the Uniform Post-Conviction Procedure Act (“UPPA”), Mr. Peterson filed a *pro se* petition for post-conviction relief. After securing counsel, he then filed a Supplemental Petition for Post-Conviction Relief, which asserted: (1) Mr. Peterson’s NCR plea was the “functional equivalent” of a guilty plea and was invalid because the record did not establish that he comprehended the nature of his charges, and that (2) Mr. Peterson’s initial counsel was inadequate because he did not inform Mr. Peterson of the consequences of taking the plea. When the circuit court denied this petition, Mr. Peterson filed for a Petition for Writ of Error *Coram Nobis*. The court denied both the post-conviction relief request and the subsequent motion for reconsideration.

Mr. Peterson then appealed to the Court of Special Appeals of Maryland. The Court of Special Appeals of Maryland affirmed the circuit court, holding

that Mr. Peterson was not eligible for post-conviction relief under the UPPA nor under *coram nobis*. Mr. Peterson appealed and the Court of Appeals of Maryland granted *certiorari*.

The issues before the court were: (1) whether a defendant found NCR could receive post-conviction relief under the UPPA statute, (2) whether *coram nobis* relief was available to NCR defendants, and (3) whether NCR defendants could pursue *habeas corpus* relief. *Peterson*, 467 Md. at 719, 226 A.3d at 249.

The Court of Appeals of Maryland began its analysis by comparing the adverse consequences of guilty defendants found NCR from those who are found criminally liable. *Peterson*, 467 Md. at 726-33, 226 A.3d at 253-57. Unlike a criminally liable defendant, the NCR defendant could either be discharged from civil commitment or conditionally released once the court has determined that the defendant is not dangerous. *Peterson*, 467 Md. at 726, 226 A.3d at 253 (citing Md. Code Ann., Crim. Proc. § 3-114(b) (West 2020)). The fundamental differences between civil and criminal confinement is that punishment is the foundation for criminal confinement, whereas protection of the defendant and members of the community is the purpose of civil confinement. *Peterson*, 467 Md. at 730, 226 A.3d at 256 (citing *Harrison-Solomon v. State*, 442 Md. 254, 286, 112 A.3d 408, 428 (2015)).

By determining that Mr. Peterson's civil confinement is inherently different from that of criminal confinement, the Court of Appeals of Maryland held that the scope of the UPPA does not extend to defendants held NCR. *Peterson*, 467 Md. at 727, 226 A.3d at 254. The court looks to the language of the UPPA statute, which provides relief to a convicted person who is: "(1) confined under sentence of imprisonment, or (2) is on parole or probation." *Peterson*, 467 Md. at 727, 226 A.3d at 254 (citing Md. Code Ann., Crim. Proc. § 7-101 (West 2013)). The court held that the plain, non-ambiguous, meaning of "convicted," "parole," and "probation" within the statute does not apply to NCR defendants under civil confinement because the General Assembly "presumed to have meant what it said and said what it meant." *Peterson*, 467 Md. at 727, 226 A.3d at 254. With the exclusion of any language regarding civil confinement or conditional release within the statute, the court holds that NCR defendants are not eligible for relief under UPPA. *Id.*

Next, The Court of Appeals of Maryland addressed Mr. Peterson's petition for *coram nobis* relief. *Peterson*, 467 Md. at 733, 226 A.3d at 257. A writ of error *coram nobis* requires a petitioner to satisfy five elements; the element in contention is whether Mr. Peterson has endured significant collateral consequences from his conviction. *Peterson*, 467 Md. at 733, 226 A.3d at 257 (citing *Jones v. State*, 445 Md. 324, 338, 126 A.3d 1162, 1170 (2015)). The court held that Mr. Peterson did not suffer significant collateral consequences from his conviction, but instead faced direct consequences

from his NCR plea. *Peterson*, 467 Md. at 733-35, 226 A.3d at 258-59. A direct consequence of a conviction is where the outcome has a “definite,” “immediate,” and “largely automatic effect” on the defendant’s punishment. *Peterson*, 467 Md. at 734, 226 A.3d at 258 (citing *Yoswick v. State*, 347 Md. 228, 240, 700 A.2d 251, 256 (1997) (citing *Cuthrell v. Director, Patuxent Inst.*, 475 F.2d 1364, 1366 (4th Cir. 1973)). Conversely, a collateral consequence is excluded from the court’s judgment and is not a “definite,” and “practical” result of the conviction. *Peterson*, 467 Md. at 734, 226 A.3d at 258 (quoting *Cuthrell*, 475 F.2d at 1366). The court ruled that Mr. Peterson’s commitment to the Maryland Department of Health, his conditional release, and his re-commitments thereafter were direct consequences of his NCR conviction. *Peterson*, 467 Md. at 735, 226 A.3d at 259. Thus, without collateral consequences, Mr. Peterson is not entitled to *coram nobis* relief. *Id.*

Finally, as a matter of first impression, the Court of Appeals of Maryland addressed whether a defendant ruled NCR is eligible for *habeas corpus* relief. *Peterson*, 467 Md. at 735, 226 A.3d at 259. The Court of Appeals of Maryland ruled that a circuit court may determine whether *habeas corpus* relief is available to defendants that have been “committed, detained, confined, or restrained” in ways other than physical restraint or imprisonment. *Peterson*, 467 Md. 713 at 736, 226 A.3d at 259 (citing *Sabisch v. Moyer*, 466 Md. 327, 331, 220 A.3d 272, 274 (2019)).

The court held that civil confinement falls within the plain language of the Maryland *habeas corpus* statute. *Peterson*, 467 Md. at 736, 226 A.3d at 259 (citing Md. Code Ann., Cts. & Jud. Proc. § 3-702(a) (West 2020)). “Commitment” is defined as confining a person in a prison, a mental hospital, or other institutions. *Peterson*, 467 Md. at 737, 226 A.3d at 260 (citing *Commitment*, Black’s Law Dictionary (11th ed. 2019)). Therefore, when a NCR defendant is civilly committed to a Department of Health facility for inpatient treatment, such involuntary commitment results in a significant deprivation of liberty over which the state has no authority without due process of law. *Peterson*, 467 Md. at 737, 226 A.3d at 260 (citing *Addington v. Texas*, 441 U.S. 418, 245 (1979)).

In addition to civil commitment, a NCR defendant’s conditional release is eligible for *habeas corpus* relief because the restrictions placed on a defendant are viewed by the court as a potential deprivation of liberty. *Peterson*, 467 Md. at 737, 226 A.3d at 260. Where the Court of Appeals of Maryland previously found probation as a form of confinement, it now extends confinement to the conditional release of NCR defendants. *Id.* at 736-37, 226 A.3d 259-60.

Prior to the court’s holding in *Peterson*, NCR defendants in civil confinement or on conditional release were not eligible to petition for post-conviction relief. The Court of Appeals of Maryland established a mechanism for NCR defendants to seek post-conviction relief by expanding *habeas corpus* to include civil commitment and conditional release. Moving

forward, NCR defendants may now petition for post-conviction relief under *habeas corpus* to the circuit courts, which may decide whether the defendant is entitled to relief.